

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill authorizes counties to collect more funds to help pay for drug court programs.

Ensures Lower Taxes: The bill authorizes counties to collect more funds to help pay for drug court programs.

Promote Personal Responsibility: The bill authorizes counties to collect more funds from those who use the courts services to help pay for drug court programs.

B. EFFECT OF PROPOSED CHANGES:

Background

Drug Court System

The original drug court concept was developed in Dade County as a response to a federal mandate to reduce the inmate population or lose federal funding. The Florida Supreme Court reported that a majority of the offenders being incarcerated due to drug-related crimes were “revolving back through the criminal justice system because of underlying problems of drug addiction.” The Court felt that the delivery of treatment services needed to be coupled with the criminal justice system, strong judicial leadership, and partnerships to bring treatment services and the criminal justice system together.

Drug courts are operational in each of Florida’s 20 judicial circuits. There are presently 88 drugs courts operating in 43 counties in Florida. They are categorized as follows:

- Adult drug courts
- Juvenile (delinquency) drug courts
- Dependency drug courts
- Reentry drug courts

There are 1,183 drug courts nationwide, either operational or in the planning stages, and drug courts are operational in all fifty states.

Drug court programs typically provide services and monitoring in the pretrial stage. The programs can do this by extending the pretrial stage, and using the threat of a criminal prosecution and conviction as a means to encourage compliance. Drug courts operate on a reward and punishment system. The reward for successful completion of the program is not only a better life, but also lowering of a criminal charge to a lesser offense, or even dismissal of the criminal charge. The punishment is typically jail time for failing to comply with the program, plus continuation of the criminal process and possible additional jail time upon conviction. Recently, a district court ruled that a drug court participant cannot be separately jailed for violating the terms of the drug court program, and then tried and convicted for the underlying criminal offense.

Under the recent implementation of Revision 7 to Article V of Florida’s Constitution, the state has agreed to pay from state revenues certain case management costs which include “service referral, coordination, monitoring, and tracking for treatment-based drug court programs under s. 397.334.” However, “costs associated with the application of therapeutic jurisprudence principles by the courts” are excluded from the mandated portion of these costs to be borne by the state.

Section 397.334, F.S., authorizes the use of county funding to share resources and the responsibilities associated with the 88 treatment-based drug court programs. Each judicial circuit is directed to establish a model of a drug court program and currently each of the 20 judicial circuits has a drug court program in place. The program may be established in misdemeanor, felony, family, or other court divisions. Treatment-based drug court programs may include pre-trial intervention programs as provided for in ss. 948.08, 948.16, and 985.306, F.S.

Effect of Proposed Changes

The bill authorizes each county in which a drug court program has been established to require both circuit and county courts to assess a mandatory cost of \$6 to fund program operational and administrative costs within the county. The \$6 is to be assessed against every person who pleads guilty to, or pleads nolo contendere to, or is convicted of, regardless of adjudication, a violation of ch. 893, F.S. (substance abuse and controlled substances), a municipal ordinance, a county ordinance, or any provision of ch. 316, F.S. (state uniform traffic control laws), involving the use of alcohol or abuse of other substances that results in the payment of a fine or civil penalty.

These funds shall be administered by the trial court administrator for the respective circuit under the direction of the advisory committee appointed by the chief judge. Clerks shall retain eight percent of the revenue generated as fee income.

C. SECTION DIRECTORY:

Section 1. Creates s. 938.20, F.S., relating to court costs for drug court programs.

Section 2. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a significant fiscal impact on state revenues. See D. Fiscal Comments.

2. Expenditures:

The bill does not appear to have a significant fiscal impact on state expenditures. See D. Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a significant fiscal impact on local government revenues. See D. Fiscal Comments.

2. Expenditures:

The bill does not appear to have a significant fiscal impact on local government expenditures. See D. Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Should a county adopt an ordinance under the provisions of this bill, persons whose cases fall within the ordinance's purview would pay an additional \$6 per case.

D. FISCAL COMMENTS:

The bill permits counties to require by ordinance a mandatory \$6 cost to be assessed by circuit and county courts in certain instances. The bill directs that the monies collected, less 8% for the clerk of the court, be designated for the operation and administration of the drug court program within the county and under the authority of the trial court administrator for the circuit. The amount raised by the cost depends on the number of cases that arise to which the cost would apply. No money is generated unless the county adopts the applicable ordinance. The drug court program would receive \$5.52 of each \$6 cost with the clerk of the court receiving the remaining \$0.48.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable under this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.